



CHESTER J. CULVER  
GOVERNOR

## OFFICE OF THE GOVERNOR

PATTY JUDGE  
LT. GOVERNOR

April 28, 2010

The Honorable Michael Mauro  
Secretary of State  
State Capitol Building  
L O C A L

Dear Mr. Secretary:

I hereby transmit:

**House File 2399**, an Act requiring certain rate-regulated public utilities to undertake analyses of and preparation for the possible construction of low carbon emitting nuclear generating facilities in this state, permitting all rate-regulated public utilities to make significant alterations to an existing generating facility, and including effective date provisions.

The above House File is hereby approved this date.

Sincerely,

A handwritten signature in black ink, appearing to read "Chester J. Culver", followed by a long horizontal flourish line.

Chester J. Culver  
Governor

CJC:bdj

cc: Secretary of the Senate  
Chief Clerk of the House





House File 2399

AN ACT

REQUIRING CERTAIN RATE-REGULATED PUBLIC UTILITIES TO UNDERTAKE ANALYSES OF AND PREPARATION FOR THE POSSIBLE CONSTRUCTION OF LOW CARBON EMITTING NUCLEAR GENERATING FACILITIES IN THIS STATE, PERMITTING ALL RATE-REGULATED PUBLIC UTILITIES TO MAKE SIGNIFICANT ALTERATIONS TO AN EXISTING GENERATING FACILITY, AND INCLUDING EFFECTIVE DATE PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 476.6, Code Supplement 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 22. *a.* It is the intent of the general assembly to require certain rate-regulated public utilities to undertake analyses of and preparations for the possible construction of nuclear generating facilities in this state that would be beneficial in a carbon-constrained environment.

*b.* A rate-regulated electric utility that was subject to a revenue sharing settlement agreement with regard to its electric base rates as of January 1, 2010, shall recover, through a rider and pursuant to a tariff filing made on or before December 31, 2013, the reasonable and prudent costs of its analyses of and preparations for the possible construction of facilities of the type referenced in paragraph "a". Cost recovery shall be accomplished by instituting a revenue increase applied in the same percentage amount to each customer class and not designed to recover, on an annual basis, more than five-tenths percent of the electric utility's calendar year 2009 revenues attributable to billed base rates in this state. At the conclusion of the cost recovery period, which shall extend no more than thirty-six months in total, the board shall conduct a contested case proceeding pursuant to chapter 17A to

evaluate the reasonableness and prudence of the cost recovery. The utility shall file such information with the board as the board deems appropriate, including the filing of an annual report identifying and explaining expenditures identified in the rider as items for cost recovery, and any other information required by the board. If the board determines that the utility has imprudently incurred costs, or has incurred costs that are less than the amount recovered, the board shall order the utility to modify the rider to adjust the amount recoverable.

c. Costs that may be recovered through the rider described in paragraph "b" shall be consistent with the United States nuclear regulatory guide, section 4.7, general site suitability criteria for nuclear power stations, revision two, April 1998, including costs related to the study and use of sites for nuclear generation.

Sec. 2. Section 476.53, Code 2009, is amended to read as follows:

**476.53 Electric generating and transmission facilities.**

1. It is the intent of the general assembly to attract the development of electric power generating and transmission facilities within the state in sufficient quantity to ensure reliable electric service to Iowa consumers and provide economic benefits to the state. It is also the intent of the general assembly to encourage rate-regulated public utilities to consider altering existing electric generating facilities, where reasonable, to manage carbon emission intensity in order to facilitate the transition to a carbon-constrained environment.

2. a. The general assembly's intent with regard to the development of electric power generating and transmission facilities, or the significant alteration of an existing generating facility as provided in subsection 1, shall be implemented in a manner that is cost-effective and compatible with the environmental policies of the state, as expressed in Title XI.

b. The general assembly's intent with regard to the reliability of electric service to Iowa consumers, as provided in subsection 1, shall be implemented by considering the diversity of the types of fuel used to generate electricity, the availability and reliability of fuel supplies, and the impact of the volatility of fuel costs.

~~3. For purposes of this section, unless the context otherwise requires, the terms "cogeneration pilot project~~

~~facility", "energy sales agreement", "qualified cogeneration pilot project facility", and "utility-owned cogeneration pilot project facility" mean the same as defined in section 15.269.~~

4. 3. a. The board shall specify in advance, by order issued after a contested case proceeding, the ratemaking principles that will apply when the costs of the electric power generating facility, or alternate energy production facility, ~~cogeneration pilot project facility, or energy sales agreement~~ are included in regulated electric rates whenever a rate-regulated public utility does any of the following:

(1) Files an application pursuant to section 476A.3 to construct in Iowa a baseload electric generating facility with a nameplate generating capacity equal to or greater than three hundred megawatts or a combined-cycle electric power generating facility, or an alternative energy production facility as defined in section 476.42, or to significantly alter an existing generating facility. For purposes of this subparagraph, a significant alteration of an existing generating facility must, in order to qualify for establishment of ratemaking principles, fall into one of the following categories:

(a) Conversion of a coal fueled facility into a gas fueled facility.

(b) Addition of carbon capture and storage facilities at a coal fueled facility.

(c) Addition of gas fueled capability to a coal fueled facility, in order to convert the facility to one that will rely primarily on gas for future generation.

(d) Addition of a biomass fueled capability to a coal fueled facility.

With respect to a significant alteration of an existing generating facility, an original facility shall not be required to be either a baseload or a combined-cycle facility. Only the incremental investment undertaken by a utility under subparagraph divisions (a), (b), (c), or (d) shall be eligible to apply the ratemaking principles established by the order issued pursuant to paragraph "e". Facilities for which advanced ratemaking principles are obtained pursuant to this section shall not be subject to a subsequent board review pursuant to section 476.6, subsection 21 to the extent that the investment has been considered by the board under this section. To the extent an eligible utility has been authorized to make capital investments subject to section 476.6, subsection 21, such investments shall not be eligible for ratemaking principles

pursuant to this section.

(2) Leases or owns in Iowa, in whole or in part, a new baseload electric power generating facility with a nameplate generating capacity equal to or greater than three hundred megawatts or a combined-cycle electric power generating facility, or a new alternate energy production facility as defined in section 476.42.

~~(3) Enters into an agreement for the purchase of the electric power output of a qualified cogeneration pilot project facility or constructs a utility-owned cogeneration pilot project facility pursuant to section 15.269.~~

b. In determining the applicable ratemaking principles, the board shall not be limited to traditional ratemaking principles or traditional cost recovery mechanisms. Among the principles and mechanisms the board may consider, the board has the authority to approve ratemaking principles proposed by a rate-regulated public utility that provide for reasonable restrictions upon the ability of the public utility to seek a general increase in electric rates under section 476.6 for at least three years after the generating facility begins providing service to Iowa customers.

c. In determining the applicable ratemaking principles, the board shall make the following findings:

(1) The rate-regulated public utility has in effect a board-approved energy efficiency plan as required under section 476.6, subsection 16.

(2) The rate-regulated public utility has demonstrated to the board that the public utility has considered other sources for long-term electric supply and that the facility ~~or lease~~ ~~or cogeneration pilot project facility~~ is reasonable when compared to other feasible alternative sources of supply. The rate-regulated public utility may satisfy the requirements of this subparagraph through a competitive bidding process, under rules adopted by the board, that demonstrate the facility ~~energy sales agreement~~, or lease is a reasonable alternative to meet its electric supply needs.

d. The applicable ratemaking principles shall be determined in a contested case proceeding, which proceeding may be combined with the proceeding for issuance of a certificate conducted pursuant to chapter 476A.

e. The order setting forth the applicable ratemaking principles shall be issued prior to the commencement of construction or lease of the facility~~, or execution of an energy~~

~~sales agreement related to the cogeneration pilot project facility.~~

*f.* Following issuance of the order, the rate-regulated public utility shall have the option of proceeding according to either of the following:

(1) Withdrawing its application for a certificate pursuant to chapter 476A.

(2) Proceeding with the construction or lease of the facility ~~or implementation of an energy sales agreement related to a cogeneration pilot project facility.~~

*g.* Notwithstanding any provision of this chapter to the contrary, the ratemaking principles established by the order issued pursuant to paragraph "e" shall be binding with regard to the specific electric power generating facility ~~or cogeneration pilot project facility~~ in any subsequent rate proceeding.

~~5.~~ 4. The utilities board and the consumer advocate may employ additional temporary staff, or may contract for professional services with persons who are not state employees, as the board and the consumer advocate deem necessary to perform required functions as provided in this section, including but not limited to review of power purchase contracts, review of emission plans and budgets, and review of ratemaking principles proposed for construction or lease of a new generating facility ~~or a cogeneration pilot project facility.~~ Beginning July 1, 2002, there is appropriated out of any funds in the state treasury not otherwise appropriated, such sums as may be necessary to enable the board and the consumer advocate to hire additional staff and contract for services under this section. The costs of the additional staff and services shall be assessed to the utilities pursuant to the procedure in section 476.10 and section 475A.6.

~~6. a.~~ A qualified cogeneration pilot project facility may file a petition with the board for a determination of the avoided cost of an electric utility as provided in the federal Public Utility Regulatory Policies Act of 1978 and related federal regulations, if such a determination has not been made within the last twenty-four months or if there is reason to believe the avoided cost has changed.

~~b.~~ The board shall issue its determination of the electric utility's avoided cost within one hundred twenty days after the petition is filed.

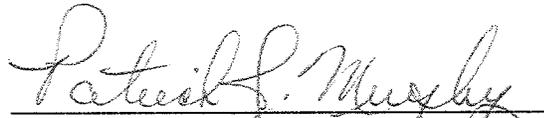
~~c.~~ The board, for good cause shown, may extend the deadline for issuing the decision for an additional period not to exceed

~~one hundred twenty days.~~

~~d. The board shall not issue a decision under this subsection without providing notice and an opportunity for hearing.~~

~~e. The utilities board and the consumer advocate may employ additional temporary staff, or may contract for professional services with persons who are not state employees, as the board and the consumer advocate deem necessary to perform required functions as provided in this subsection. There is appropriated out of any funds in the state treasury not otherwise appropriated, such sums as may be necessary to enable the board and the consumer advocate to hire additional staff and contract for services under this section. The costs of the additional staff and services shall be assessed to the electric utility pursuant to the procedure in sections 476.10 and 475A.6.~~

Sec. 3. EFFECTIVE UPON ENACTMENT. This Act, being deemed of immediate importance, takes effect upon enactment.

  
PATRICK J. MURPHY  
Speaker of the House

  
JOHN P. KIBBIE  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2399, Eighty-third General Assembly.

  
MARK BRANDSGARD  
Chief Clerk of the House

Approved April 28<sup>th</sup>, 2010

  
CHESTER J. CULVER  
Governor